

GOA STATE INFORMATION COMMISSION
'Kamat Towers', Seventh Floor, Patto, Panaji –Goa

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Complaint No. 35/2022/SCIC

Shri. Mahadev N. Naik,
House No. 68, Matvem,
Dabolim, Post-Chicalim,
403711.

.....Complainant

V/S

1. State Public Information Officer (SPIO),
Office of the Mormugao Municipal Council,
Vasco-da-Gama, Goa,
403802.

.....Opponent

Shri. Vishwas R. Satarkar

State Chief Information Commissioner

Filed on: 25/10/2022

Decided on: 02/03/2023

FACTS IN BRIEF

1. The Complainant Shri. Mahadev N. Naik r/o. H. No. 68, Matvem, Dabolim, Chicalim, Goa vide his application dated 28/07/2022 filed under Section 6(1) of the Right to Information Act, 2005 (hereinafter to be referred as 'Act') sought following information from the Public Information Officer (PIO), of Mormugao Municipal Council, Vasco, Goa:-

"Furnish certified copy of the comments submitted by you to the Dy. Director, Urban Development as per the letter DMA/COM.CELL/MORM/2022-23/F-29/837 dated 03/06/2022 (copy enclosed)."

2. The said application was responded by the PIO on 26/08/2022 in the following manner:-

"With reference to the above subject, you are hereby informed to pay an amount of Rs. 2/- (Rupees Two only) during any working days for issue of information."

3. Upon the receipt of the above intimation, the Complainant paid the requisite fee of Rs. 2/- vide receipt No. 14360 of Book No. 14 on

29/09/2022. Upon collecting the fee, the PIO asked the Complainant to visit the office of the PIO on next day to collect the said information.

4. The Complainant submitted that, he is a senior citizen over 75 years and the Opponent made him to visit in the office at Vasco, Goa frequently not less than 4 times, eventually the PIO failed and neglected to provide the information to the Complainant inspite of receipt of fees.
5. Aggrieved with the lethargic and careless attitude of the Opponent PIO, the Complainant landed before the Commission by this complaint proceeding under Section 18 of the Act with the prayer to direct the PIO to furnish the information free of cost to the Complainant and refund the fees deposited by him and to initiate action under Section 20 of the Act for harassing the Complainant.
6. Notices were issued to the parties, representative of the Complainant Shri. Pratap Mardolkar appeared on 05/12/2022. In spite of valid service of notice, the PIO failed and neglected to appear before the Commission nor he filed his reply in the matter.
7. The record reveals that, the conduct of the PIO, Municipal Engineer Grade-II, Mormugao Municipal Council, Vasco-da-Gama, Goa is casual and trivial. The PIO at all level has shown lack of concern to the process of RTI Act and thus failed to discharge his duty and responsibility as mandated under the Act.
8. Asking the Complainant to pay the requisite fee and after making payment calling the Complainant on several occasions is an undesirable practise. This is nothing but wilful denial of information. If this is permitted then the entire spirit of the RTI Act becomes futile. Due to the casual and irresponsible approach of the PIO, the Complainant who is a senior citizen was put to unnecessary hardship and was made to run from pillars to post to get the information and had to waste his time, energy and money.

Harassment of common man by public authorities is socially abhorring and legally impermissible.

9. The whole purpose of the Act is to bring about as much transparency as possible in relation to activities and affairs of public authorities. Section 20 of the Act, clearly lays down that in case the information has not been supplied to the information seeker within the time limit, without any reasonable cause then the Commission shall impose the penalty.

10. The High Court of Delhi in the case of **State Bank of India v/s Mohd. Shahjahan (W.P. (c) 9810/2009)** has held as under:-

“22. The very object and purpose of the RTI Act is to make the working of public authorities transparent and accountable. For the purpose of the RTI Act, all information held by a public authority is accessible except to the extent such information is expressly exempted from disclosure as provided in the RTI Act itself. In other words, unless the public authority is able to demonstrate why the information held by it should be exempt from disclosure, it should normally be disclosed. The burden, therefore, is entirely on the public authority to show why the information sought from it should not be disclosed.”

11. The High Court of Kerala in the case **Janilkumar v/s State Information Commission & Ors (LNIND 2012 Ker. 982)**, the Court has held that failure to furnish information is penal under Section 20 of the Act.

12. The High Court of Bombay, Goa bench in the case **Johnson B. Fernandes v/s The Goa State Information Commission & Anr. (2012 (1) ALL MR 186)** has held that, law contemplates

supply of information by the PIO to party who seeks it, within the stipulated time, therefore where the information sought was not supplied within 30 days, the imposition of penalty upon the PIO was proper.

13. Considering the fact that the RTI Act is a beneficial legislation and same is enacted to provide maximum information to the information seeker. The Complainant is entitled for the information.

14. Considering the ratio laid down by various High Courts, the Commission comes to the conclusion that, it is a fit case for imposing penalty under Section 20 of the Act against the PIO. However, before any penalty is imposed, the principle of natural justice demands that an explanation be called for from the concerned PIO, as to why he failed to discharge the duty cast upon him as per the RTI Act. I therefore pass following:-

ORDER

- The complaint is allowed.
- The Public Information officer (PIO) of Mormugao Municipal council, Vasco-da-Gama, Goa is directed to provide the information to the Complainant as per his RTI application dated 28/07/2022 within the period of **FIFTEEN DAYS** from the date of receipt of this order.
- The Public Information officer (PIO) of Mormugao Municipal council, Vasco-da-Gama, Goa is hereby directed to show cause as to why penalty should not be imposed on him in terms of Section 20(1) of the Act and / or recommend to initiate disciplinary proceeding against him in terms of Section 20(2) of the Act.
- The reply to the showcause notice is to filed on **13/04/2023 at 10:30 am.**

- The complaint stands disposed accordingly.
- Proceedings closed.
- Pronounced in the open court.
- Notify the parties.

Sd/-

(Vishwas R. Satarkar)

State Chief Information Commissioner